

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ICU MEDICAL, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 07-468-JJF
	)	
RYMED TECHNOLOGIES, INC.,	)	
	)	<b>JURY TRIAL DEMANDED</b>
Defendant.	)	

**PLAINTIFF ICU MEDICAL, INC.'S REPLY TO RYMED'S  
COUNTERCLAIMS WITH DEFENSES**

Plaintiff ICU Medical, Inc. ("ICU") hereby responds to the numbered paragraphs of the counterclaims filed by RyMed Technologies, Inc. ("RyMed") as follows:

**PARTIES**

1. Admitted.
2. Admitted.

**JURISDICTION AND VENUE**

3. Admitted that RyMed's counterclaims purport to state a claim under United States patent law. ICU denies the remaining allegations of this paragraph.
4. Admitted.

**FIRST COUNTERCLAIM**

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF  
THE '866 PATENT**

5. ICU realleges and incorporates herein by reference its replies contained in paragraphs 1-4.

6. ICU admits to having filed a complaint for patent infringement against RyMed with respect to U.S. Patent No. 5,685,866 and that RyMed has denied these allegations. ICU denies the remaining allegations of this paragraph.

7. Denied.

8. Denied.

9. Denied.

### **SECOND COUNTERCLAIM**

#### **DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '862 PATENT**

10. ICU realleges and incorporates herein by reference its replies to paragraphs 1-9.

11. ICU admits to having filed a complaint for patent infringement against RyMed with respect to U.S. Patent No. 5,873,862 and that RyMed has denied these allegations. ICU denies the remaining allegations of this paragraph.

12. Denied.

13. Denied.

14. Denied.

### **THIRD COUNTERCLAIM**

#### **DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '204 PATENT**

15. ICU realleges and incorporates herein by reference its replies to paragraphs 1-14.

16. ICU admits to having filed a complaint for patent infringement against RyMed with respect to U.S. Patent No. 5,928,204 and that RyMed has denied these allegations. ICU denies the remaining allegations of this paragraph.

17. Denied.

18. Denied.

19. Denied.

**FOURTH COUNTERCLAIM**

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF  
THE '592 PATENT**

20. ICU realleges and incorporates herein by reference its replies to paragraphs 1-19.

21. ICU admits to having filed a complaint for patent infringement against RyMed with respect to U.S. Patent No. 6,572,592 and that RyMed has denied these allegations. ICU denies the remaining allegations of this paragraph.

22. Denied.

23. Denied.

24. Denied.

WHEREFORE, ICU prays as follows:

(a) judgment be entered in its favor;

(b) Defendant's counterclaims be dismissed with prejudice;

(c) Defendant be ordered to pay all costs, expenses and attorneys' fees incurred by ICU to the extent permissible by law; and

(d) for such other and further relief as the Court deems appropriate.

**DEFENSES**

**FIRST DEFENSE**  
**(Unclean Hands)**

On information and belief, the counterclaims are barred by the doctrine of unclean hands.

**SECOND DEFENSE**  
**(Estoppel)**

On information and belief, the counterclaims are barred by estoppel.

**THIRD DEFENSE**  
**(Waiver)**

On information and belief, the counterclaims are barred by waiver.

ICU reserves the right to assert any other defenses that discovery may reveal, in the event discovery or other analyses indicated that additional defenses are appropriate.

**JURY DEMAND**

ICU demands a jury trial on all issues triable to a jury in this matter.

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*Attorneys for Plaintiff ICU Medical, Inc.*

Dated: November 1, 2007  
829215 / 32116

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**CERTIFICATE OF SERVICE**

I, Kenneth L. Dorsney, hereby certify that on November 1, 2007, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I hereby certify that on November 1, 2007, I have Electronically Mailed the document to the following person(s):

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